

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RICHARD LEE SIMKINS, III, :
Plaintiff,
v. : Case No. 3:19-cv-227
CHRISTOPHER McINTOSH, *et* : JUDGE WALTER H. RICE
al., :
Defendants.

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #97);
OVERRULING PLAINTIFF'S OBJECTIONS THERETO; SUSTAINING
DEFENDANT CHRISTOPHER McINTOSH, M.D.'S MOTION FOR
JUDGMENT ON THE PLEADINGS (DOC. #80) AND SUPPLEMENT
TO MOTION FOR JUDGMENT ON THE PLEADINGS (DOC. #87);
DISMISSING ALL CLAIMS AGAINST DR. McINTOSH WITHOUT
PREJUDICE FOR FAILURE TO PERFECT SERVICE OF PROCESS

Based on the reasoning and citations of authority set forth by United States
Magistrate Judge Michael J. Newman in his Report and Recommendations, Doc.
#97, as well as upon a thorough *de novo* review of this Court's file and the
applicable law, the Court ADOPTS said judicial filing in its entirety, and SUSTAINS
Defendant Christopher McIntosh, M.D.'s Motion for Judgment on the Pleadings,
Doc. #80, and Supplement to Motion for Judgment on the Pleadings, Doc. #87.

The Court OVERRULES Plaintiff's Objections to the Report and
Recommendations, Doc. #98, as meritless. In its previous Order, the Court noted
that "[t]his case has been pending since August 1, 2019, and Plaintiff has been

given ample time. Unless he can show extraordinary circumstances, failure to perfect service by June 4, 2020, will result in the dismissal of the claims against the unserved defendants." Doc. #77, PageID#579.

Plaintiff has failed to show that extraordinary circumstances have prevented him from properly serving Dr. McIntosh within the time allotted. Accordingly, pursuant to Fed. R. Civ. P. 4(m), the Court SUSTAINS Dr. McIntosh's Motions for Judgment on the Pleadings, Docs. ##80, 87, and DISMISSES all claims against him WITHOUT PREJUDICE.

Date: March 30, 2021



(tp - per Judge Rice authorization after his review)

WALTER H. RICE
UNITED STATES DISTRICT JUDGE